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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,601	09/28/2004	Tadashi Kaga	Q83766	2295
23373	7590	01/04/2006		
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037			EXAMINER SCHWARTZ, JORDAN MARC	
			ART UNIT 2873	PAPER NUMBER

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/509,601	KAGA, TADASHI <i>(Signature)</i>	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jordan M. Schwartz	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 September 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. PCT/JP04/04802.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>9/04</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. PCT/JP04/04802, filed on April 1, 2004.

### ***Drawings***

The drawings are objected to because each drawing appears to have superimposed over it the drawing or drawings from the following page. For example, Figure 1 has superimposed over it Figure 2 from the subsequent page. Figure 3 has superimposed over it Figures 4A and 4B from the subsequent page. It is suggested that applicant resubmit clear copies of the drawings.

The drawings are further objected to because Figures 11A to 11C should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

Claims 1 and 3 are objected to for the following reasons. Since the intended meaning could be determined from the specification, 112 rejections were not made but instead these lack of clarity issues are being raised in the following claim objections.

1. With respect to claims 1 and 3, the claims each have a period in the middle of the claim and do not end in a period as required by the MPEP.
2. Claim 1 states in line 20, “expressed by expression (1) or (2)” but then state “Numerical Formula 1” and “Numerical Formula 2” which is inconsistent.
3. Claim 3 states in line 30, “expressed by expression (1) or (2)” but then state “Numerical Formula 3” and “Numerical Formula 4” which is inconsistent.

Clarification is required. As a suggestion, it is suggested that applicant delete the period in the middle of the claim and replace it with “wherein”. Furthermore, that applicant replace “Numerical Formula 1” and “Numerical Formula 3” with “expression 1 is expressed as”, and further replace “Numerical Formula 2” and “Numerical Formula 4” with “and expression 2 is expressed as”, and further that applicant insert a period after the second expression so that the claim ends in a period.

#### ***Claim Rejections - 35 USC § 112***

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 2, that part of the claim stating “the eye-ball side refracting interface or the object-side refracting interface opposite to the surface having the

combined interface" renders the claim vague and indefinite. Specifically, in claim 1, applicant defines the combined interface as having the refracting interface i.e. that the combined interface surface is the same surface as the refracting interface surface so therefore now claiming that the refracting interface surface is on the opposite surface of the combined interface surface renders the claim vague and indefinite. As a suggestion, and as is assumed for purposes of examination, applicant may want to change the claim to read "the eye-ball side surface or the object-side surface opposite to the surface having the combined interface" to provide the required clarity.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Mukaiyama patent number 6,019,470.

Mukaiyama'470 reads on these claims by disclosing the limitations therein including the following: a progressive multifocal lens or method of designing a progressive multifocal lens (abstract, column 1, lines 7-10) comprising a progressive refracting interface in a refracting interface on an eyeball or object side (column 6, lines 10-47); the progressive refracting surface including a distant, near, and progressively varying surface between (column 9, lines 47-60); the object side refracting interface is a combined interface of a progressive and toric surface (column 6, lines 10-47); with an

original progressive refracting interface set to exhibit a desired eyesight correcting characteristic (column 6, lines 10-47); and an original toric surface set to exhibit a desired astigmatism corrective characteristic (column 6, lines 10-47); and value zp in any point in the combined interface is expressed by claimed expression 1 (column 6, lines 49-65 in which the expression between lines 60-65 can be expressed in the format of claimed expression 1). Mukaiyama'470 further discloses the opposite surface as spherical in shape (column 9, line 65).

***Prior Art Citations***

Mukaiyama et al patent number 6,220,704 is being cited herein to show another progressive multifocal lens that would have read on claims 1-3 for the same seasons as set forth above, however, such rejections would have been repetitive.

Menezes et al patent number 6,149,271 is being cited herein to show a progressive multifocal lens having some similar structure to that of the claimed invention.

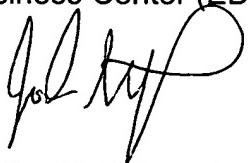
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jordan M. Schwartz whose telephone number is (571) 272-2337. The examiner can normally be reached on Monday to Friday from 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on (571) 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2873

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jordan M. Schwartz  
Primary Examiner  
Art Unit 2873  
December 30, 2005